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10/646,850	08/22/2003	Uwe Mellenthin	H01.2B-11123-US01	1502

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EXAMINER
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DAYE, CHELCIE L

ART UNIT	PAPER NUMBER
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2161

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/646,850	<b>Applicant(s)</b> MELLENTIN ET AL.	
	<b>Examiner</b> CHELCIE DAYE	<b>Art Unit</b> 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7,8,10 and 21-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10 and 21-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is issued in response to applicant's amendment filed November 23, 2009.
2. Claims 1-5, 7-8, 10, and 21-39 are presented. Claims 22-39 are added and claims 6, 9, and 11-20 are cancelled.
3. Claims 1-5, 7-8, 10, and 21-39 are pending.
4. Applicant's arguments filed November 23, 2009, have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, newly added claim 24 recites the limitation "the date of next calibration" within the last limitation. However, there is no prior mention of an existing date. There is insufficient antecedent basis for this limitation in the claim. Also, there is no mention of a first or initial calibration, thus the examiner is unclear as to why the system is discussing and storing a "next" calibration when no mention of an originating calibration is disclosed.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**8. Claims 1, 2, 4, 5, 10, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Jansen (US Patent No. 6,778,917).**

Regarding Claim 1, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)<sup>1</sup>, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

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<sup>1</sup> Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore contactlessly. Also, the reader corresponds to both the writing device and the reading device (see [0132]).

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand),

storing into the transponder production-related specific data ([0016-0017]; [0030], Brand). However, Brand is not as detailed with respect to the data being of an initial calibration. On the other hand, Jansen discloses disclosing the data being of an initial calibration (column 4, lines 37-55, Jansen). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Brand system. A skilled artisan would have been motivated to combine, as suggested by Jansen at columns 2-3, lines 60-67 and 1-2, respectively, in order to alleviate the tedious and erroneous task of inputting the calibration data via a keyboard. Thereby, providing a system for operating a metering system with improved operating parameters.

Regarding Claim 2, the combination of Brand in view of Jansen, disclose the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claim 4, the combination of Brand in view of Jansen, disclose the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

Regarding Claims 5 and 21, the combination of Brand in view of Jansen, disclose the method wherein an article number and/or a serial number of the proportioning device and/or a production order number and/or a batch number is/are stored into the transponder as production-related specific data ([0022], Brand).

Regarding Claim 10, the combination of Brand in view of Jansen, disclose the method wherein usage data is stored into the transponder as application-related specific data ([0027], Brand).

**9. Claims 3, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Jansen (US Patent No. 6,778,917), further in view of Curry (US Patent No. 6,814,293).**

Regarding Claim 3, the combination of Brand in view of Jansen, disclose all of the claimed subject matter as stated above. However, Brand and Jansen are not as detailed with a beginning stage of assembling the proportioning device, a product component is provided with the transponder. On the other hand, Curry discloses a beginning stage of assembling the proportioning device, a product component is provided with the transponder (column 17, lines 8-24, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Brand and Jansen system. A skilled artisan would have been motivated to combine in order to authorize the system to communicate data with other. By applying this information this allows the device to be self-contained ensuring that the needed data will be available with more ease.

Regarding Claim 7, the combination of Brand in view of Jansen, further in view of Curry, disclose the method wherein sales data is stored into the transponder as application-related specific data (column 7, lines 29-31; column 17, lines 2-7, Curry).

Regarding Claim 8, the combination of Brand in view of Jansen, further in view of Curry, disclose the method wherein inventory data of the user is stored

into the transponder as application-related specific data (column 7, lines 29-31; column 17, lines 2-7, Curry).

**10. Claims 22, 24, 25-28, 31, 33, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Jansen (US Patent No. 6,778,917), further in view of Hubbard (US Patent No. 6,577,961).**

Regarding Claim 22, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)<sup>2</sup>, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes, manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),



during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand),

storing into the transponder application-related specific data ([0026];[0030];[0096], Brand).

However, Brand is not as detailed with respect to the data being of calibration data. On the other hand, Jansen discloses disclosing the data being of calibration data (column 4, lines 37-55 and column 5, lines 15-22, Jansen). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Brand system. A skilled artisan would have been motivated to combine, as suggested by Jansen at columns 2-3, lines 60-67 and 1-2, respectively, in order to alleviate the tedious and erroneous task of inputting the calibration data via a keyboard. Thereby, providing a system for operating a metering system with improved operating parameters.

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<sup>2</sup> Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore

While Jansen teaches user parameters concerning the calibration of the metering device, which is a correction factor for converting the set metering quantities to the actually dispensed metering quantities (see col.3, lines 54-58), however, Jansen is not as detailed as the examiner would like with respect to the calibration comprising correctness and precision.

On the other hand, Hubbard discloses calibration data comprising correctness and precision of the user (col.20, lines 10-20, col.24, lines 19-20, and col.39, lines 49-54, Hubbard). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Hubbard's teachings into the Brand and Jansen system. A skilled artisan would have been motivated to combine in order to allow for a more flexible device which permits the addition of measurements without the need for factory modifications.

Regarding Claim 24, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)<sup>3</sup>, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes,

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contactlessly. Also, the reader corresponds to both the writing device and the reading device (see [0132]).

manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand), and

storing into the transponder application-related specific data ([0026];[0030];[0096], Brand).

However, Brand is not as detailed with respect to the data being of calibration data. On the other hand, Jansen discloses disclosing the data being of calibration data (column 4, lines 37-55 and column 5, lines 15-22, Jansen). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Jansen's calibration system into the Brand system. A

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<sup>3</sup> Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore

skilled artisan would have been motivated to combine, as suggested by Jansen at columns 2-3, lines 60-67 and 1-2, respectively, in order to alleviate the tedious and erroneous task of inputting the calibration data via a keyboard. Thereby, providing a system for operating a metering system with improved operating parameters.

However, Jansen is not as detailed with respect to storing a date of next calibration.

On the other hand, Hubbard discloses storing a date of next calibration (cols.17-18, lines 40-67 and 1-7; respectively, and col.24, lines 17-20, Hubbard). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Hubbard's teachings into the Brand and Jansen system. A skilled artisan would have been motivated to combine in order to allow for a more flexible device which permits the addition of measurements without the need for factory modifications.

Regarding Claims 25-28, the combination of Brand in view of Jansen, further in view of Hubbard, disclose the method wherein the data of an initial calibration comprises the date of initial calibration (cols.17-18, lines 40-67 and 1-7; respectively, and col.24, lines 17-20, Hubbard).

Regarding Claims 31 and 37, the combination of Brand in view of Jansen, further in view of Hubbard, disclose the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claims 33 and 39, the combination of Brand in view of Jansen, further in view of Hubbard, disclose the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

**11. Claims 23, 29, 30, and 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Curry (US Patent No. 6,814,293).**

Regarding Claim 23, Brand discloses a method for handling data of a proportioning device for the dosing of liquids, comprising the steps of:

providing the proportioning device for the dosing of liquids ([0002], Brand), in a production process ([0003-0004], Brand), with at least one transponder for contactlessly storing data using a writing device and from which data can be contactlessly read using a reading device ([0054-0055], Brand)<sup>4</sup>, the proportioning device being of a portable or stationary design and selected from the group consisting of manually operated pipettes, motor-operated pipettes,

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<sup>4</sup> Examiner Notes: The data is wirelessly transferable between the transceivers (see [0032]), therefore contactlessly. Also, the reader corresponds to both the writing device and the reading device (see [0132]).

manually operated dispensers, and motor-operated dispensers, the proportioning device for the dosing of liquids ([0002] and [0097], Brand),

storing production-related data about the proportioning device, in the production process, into the transponder using the writing device ([0016-0017]; [0030], Brand),

during use of the proportioning device, storing application-related data about the proportioning device in the transponder using the writing device ([0026];[0030];[0096], Brand),

during use of the proportioning device or during maintenance or repair of the proportioning device, fully or partially reading out the stored production related data and the application related data using the reading device ([0018];[0130-0131], Brand),

wherein the application-related specific data stored into the transponder is fully or partially variable ([0084], Brand).

While Brand discloses storing application-related specific data into the transponder. Brand is not as detailed with the data being maintenance and/or repair data.

On the other hand, Curry discloses the stored data being maintenance and/or repair data (column 17, lines 2-7; column 20, lines 36-39, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Brand system. A skilled artisan would have been motivated to combine in order to allow for a more available system.

Regarding Claim 29, the combination of Brand in view of Curry, disclose the method wherein the repair data describes a defect<sup>5</sup>.

Regarding Claim 30, the combination of Brand in view of Curry, disclose the method wherein the repair data describes a component which has been changed<sup>6</sup>.

Regarding Claim 34, the combination of Brand in view of Curry, disclose the method wherein the proportioning device is provided with a passive transponder ([0054-0055], Brand).

Regarding Claim 35, the combination of Brand in view of Curry, disclose the method wherein at a beginning stage of assembling the proportioning device, a product component is provided with the transponder (column 17, lines 8-24, Curry).

Regarding Claim 36, the combination of Brand in view of Curry, disclose the method wherein the transponder is encapsulated in the proportioning device ([0046-0050], Brand).

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<sup>5</sup> Examiner Notes: Independent claim 23 (upon which this claim depends) has alternative language with respect to the data being stored corresponding to maintenance and/or repair. The examiner has chosen the maintenance aspect, and therefore no citation will be provided for the feature of 'repair'.

<sup>6</sup> -See explanation for claim 29-

**12. Claims 32 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brand (US Patent Application No. 2003/0183226) in view of Jansen (US Patent No. 6,778,917), further in view of Hubbard (US Patent No. 6,577,961), and further in view of Curry (US Patent No. 6,814,293).**

Regarding Claims 32 and 38, the combination of Brand in view of Jansen, further in view of Hubbard, disclose all of the claimed subject matter as stated above. However, Brand, Jansen, and Hubbard are not as detailed with a beginning stage of assembling the proportioning device, a product component is provided with the transponder. On the other hand, Curry discloses a beginning stage of assembling the proportioning device, a product component is provided with the transponder (column 17, lines 8-24, Curry). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Curry's teachings into the Brand, Jansen, and Hubbard system. A skilled artisan would have been motivated to combine in order to authorize the system to communicate data with other. By applying this information this allows the device to be self-contained ensuring that the needed data will be available with more ease.



### ***Response to Arguments***

Applicant's arguments with respect to the newly amended claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Points of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571) 272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye  
Patent Examiner  
Technology Center 2100  
January 26, 2010

/Apu M Mofiz/  
Supervisory Patent Examiner, Art Unit 2161